

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANDREA TANTAROS,

Petitioner,

-against-

FOX NEWS NETWORK, LLC., WILLIAM
SHINE, THE ESTATE OF ROGER AILES,
SUZANNE SCOTT, IRENA BRIGANTI,
AND DIANNE BRANDI,

Respondents.

Case No. 1:19-cv-07131-ALC-RWL

**NOTICE OF NON-OPPOSITION TO THE FOX RESPONDENTS' MOTION TO
DISMISS PETITION FOR INJUNCTIVE RELIEF AND DECLARATORY
JUDGMENT**

A. INTRODUCTION

Despite having sought and received an extension until January 19, 2022 to do so, Petitioner Andrea Tantaros has failed to meet the Court-ordered deadline for her to file an opposition to the Fox Respondent's¹ Motion to Dismiss (Dkt. 100) (the "Motion"). As such, the Motion is not opposed and for the reasons set forth in the Motion the Court should dismiss the Petition with prejudice.

B. PROCEDURAL HISTORY AND ARGUMENT

As the Court is aware, before Petitioner's Motion for Interlocutory Appeal was granted, the Fox Respondents filed Motions to Dismiss the Petition (Dkt. 59 & 62). On November 18,

¹ The "Fox Respondents" are Fox News Network, LLC, Suzanne Scott, Dianne Brandi and Irena Briganti.

2020, the Court denied that Motion "without prejudice to refile once the Second Circuit has resolved Petitioner's interlocutory appeal." (Dkt. 86). On August 27, 2021, the Second Circuit affirmed this Court's December 17, 2019 Order denying Petitioner's Motion to Remand to State Court (Dkt. 40). On September 8, 2021, attorney Joseph Donnelly of Donnelly Stehn, LLP filed a Notice of Appearance on behalf of Petitioner, seeking to substitute as counsel for Bruce E. Fein of Fein & Delvalle PLLC. (Dkt. 90). On September 9, 2021, the Court entered an order substituting Mr. Donnelly as counsel of record for Petitioner in place of Mr. Fein. (Dkt. 94).

The Second Circuit mandate then issued on October 7, 2021. (Dkt. 95). One week later, on October 15, 2021, Mr. Donnelly filed a Motion to Withdraw as counsel for Petitioner, indicating that Petitioner had terminated him and requesting a stay of 60-days to allow Petitioner to find new counsel. (Dkt. 96). The Court granted Mr. Donnelly's Motion to Withdraw on October 21, 2021 and stayed this matter until November 22, 2021 to allow Petitioner to secure new counsel. (Dkt. 98). Petitioner failed to obtain counsel prior to the stay lifting. On November 23, 2021, the Court entered an order providing that if Petitioner did not retain counsel by December 6, 2021, she would be required to proceed *pro se*. (Dkt. 99). The Court also set a briefing schedule for the Respondents' Motions to Dismiss at that time, with the Motions due to be filed by December 6, 2021, Petitioners' Oppositions due January 5, 2022 and the Respondents' Replies due January 19, 2022.

The Fox Respondents filed the instant Motion on December 6, 2021 in accordance with the Court's Order.² (Dkt. 100). Although Petitioner had failed to obtain counsel by that date, the Court on December 9, 2021 entered an order requiring Petitioner to comply with its November

² At the same time, Respondent William Shine joined in the Fox Respondents' Motion to Dismiss (Dkt. 103) and Respondent The Estate of Roger Ailes filed its own Motion to Dismiss (Dkt. 104).

23, 2021 Order by December 13, 2021 and reminding the Parties of the existing briefing schedule. (Dkt. 107). Petitioner nonetheless again failed to obtain counsel by the date set by the Court. However, on December 27, 2021 Cara Elizabeth Greene and Aliaksandra Ramanenka of Outten & Golden LLP entered their appearances on behalf of Petitioner. (Dkt. 108 & 109). The next day, Ms. Greene filed a Letter Motion seeking an extension of time for Petitioner to file an Opposition to Respondents' Motions to Dismiss. (Dkt. 110). Over Respondents' objections, the Court granted Petitioner's requested extension, giving Petitioner until January 19, 2022 to file her Oppositions and Respondents until February 2, 2022 to file their Replies.

Despite the incredible patience exercised by this Court and the multiple stays and extensions granted Petitioner during her various substitutions of counsel and meritless appeals dating back to the July 30, 2019 filing of the Petition, **Petitioner failed to meet the January 19, 2022 deadline to file an Opposition to the Motion.** Accordingly, the Motion should be deemed unopposed and is ripe for adjudication. For all of the reasons set forth in the Motion and supporting Memorandum of Law, the Court should grant the Motion and dismiss the Petition with prejudice.

Dated: January 20, 2021

Respectfully submitted,

/s/ Paul Evans

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CERTIFICATE OF SERVICE

I, Paul Evans, certify that on January 20, 2022, I caused a true and correct copy of Respondents Fox News Network, LLC, Suzanne Scott, Dianne Brandi, and Irena Briganti's Notice of Non-Opposition to the Fox Respondents' Motion to Dismiss Petition for Injunctive Relief and Declaratory Judgment to be served via the Court's ECF system on counsel of record.

Dated: January 20, 2022

Respectfully submitted,

/s/ Paul Evans

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